**From:** Art Sullivan
**To:** Microsoft ATR
**Date:** 1/27/02 8:30am
**Subject:** Microsoft Settlement

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I am a corporate developer and what I see in the settlement does not addrress the major problem I have .
Microsoft with every release appears to exclude more and more software competitors. They are doing this by making middle ware none functional or none addressable.
I suggest the actions outlined below be address.

Thank you for your conmsideration
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Action
Establishment of a Windows API Standards Expert Group
To clearly and unambiguously establish what is required, technically and legally, for an Intel-compatible operating system to install and run Windows applications properly, the Court shall take the following actions with the goal of creating and maintaining an Essential Windows APIs Standard Definition and corresponding Essential Windows APIs Standard Compliance Test Suite:
   1.. Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group (``WASEG'') to manage the creation, publication, and maintenance of an Essential Windows APIs Standard Definition, and to guide it through the process of being adopted by a standards body such as ECMA or the IEEE.
   2.. Three of the WASEG members shall be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. No WASEG member shall have entered into any non-disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shall she or he enter into such an agreement during her or his term on the WASEG. Without limitation to the foregoing, no WASEG member shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the WASEG.
   3.. Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.
   4.. Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.
   5.. If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.
   6.. Promptly after appointment of the WASEG by the Court, the United States shall enter into a Windows API Expert Group services agreement (``WASEG Services Agreement'') with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:
      1.. The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses.
      2.. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above.

7.. Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

8.. The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISV's. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

9.. The WASEG shall have the following powers and duties:

1.. The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

2.. The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for hitherto undocumented or poorly-documented Windows APIs.

3.. The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

4.. The WASEG shall establish a publicly available web site not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

5.. The WASEG shall compile a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types. Within 90 days after the WASEG is convened, and on the 1st of each month thereafter until complete, the WASEG shall make the currently completed portion of this list available via its web site. The WASEG shall use tools such as Apius from Sarion Systems Research to verify that the list of Windows APIs is indeed complete, and that installing or running any Popular Windows Application does not cause any unlisted Windows API to be invoked.

6.. The WASEG shall compile a complete list of Essential Windows API patents and patents pending, and which Windows APIs each patent covers. The WASEG shall compile this list by asking Microsoft for a complete list of Essential Windows API patents and patents pending, and then determining which Windows APIs are likely to be covered by each patent or patent pending; the WASEG shall use the World Wide Web Consortium's document www.w3.org/TR/2002/NOTE-patent-practice-20020124 as guidance. Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG shall make the completed portion of this list available via its web site.

7.. The WASEG shall compile documentation for the above list of Windows APIs, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation ( http://www.UNIX-systems.org/go/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

8.. When the three documents described above - the list of Windows APIs, the list of Essential Windows Patents, and the documentation for the listed Windows APIs - is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Public Windows APIs Standard Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

9.. The WASEG shall create an Essential Windows APIs Standard Compliance Test Suite, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least fifty Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another fifty Windows APIs; this shall continue until a complete Essential Windows APIs Standard Compliance Test Suite is available on the web site.

10.. In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs, the WASEG shall create addenda to the above documents and test suite covering the new APIs, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.